



PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

News Media Information 202 / 418-0500
Internet: <http://www.fcc.gov>
TTY: 1-888-835-5322

DA 11-1154
Released: June 30, 2011

DOMESTIC SECTION 214 APPLICATION FILED FOR THE ACQUISITION OF ASSETS OF XAND CORPORATION BY XAND CLEC, LLC

STREAMLINED PLEADING CYCLE ESTABLISHED

WC Docket No. 11-106

Comments Due: July 14, 2011

Reply Comments Due: July 21, 2011

On June 23, 2011, XAND Corporation (XAND) and XAND CLEC, LLC (XAND CLEC) (together, Applicants) filed an application pursuant to section 63.03 of the Commission's rules¹ to consummate a transaction whereby XAND CLEC, LLC will acquire communications assets of XAND.

XAND, a New York corporation, provides competitive telecommunications services in New York for application hosting, data storage, and other services. It is owned by Lee S. Weinstein, a U.S. citizen. XAND CLEC, a Delaware limited liability company, does not currently provide telecommunications services. Applicants state that ABRY Senior Equity III, L.P. (ASE III), a Delaware limited partnership, will own approximately 88 percent of XAND CLEC, and Cube Capital Group, LLC (Cube Capital), a Wyoming limited liability company, will own approximately 10 percent of XAND CLEC. The general partner of ASE III is ABRY Senior Equity Investors III, L.P., a Delaware limited partnership that has ABRY Senior Equity Holdings III, LLC, also a Delaware limited liability company, as its general partner. The sole member of ABRY Senior Equity Holdings III, LLC is Royce Yudkoff, a U.S. citizen. Applicants state that no limited partner of ASE III will hold more than a 10 percent indirect interest in XAND CLEC.² Applicants further state that the sole member of Cube Capital is Lee S. Weinstein. Pursuant to the terms of the proposed transaction, XAND CLEC will acquire the communication assets of XAND, including all fiber optic cable and customer agreements owned by XAND. Applicants assert that the proposed transaction is entitled to presumptive streamlined treatment under section 63.03(b)(2)(i) of the Commission's rules and that a grant of the application will serve the public interest, convenience, and necessity.³

¹ 47 C.F.R. § 63.03; *see* 47 U.S.C. § 214. Applicants filed a supplement to their domestic section 214 application on June 29, 2011.

² Applicants state that funds under the common control of ASE III own the following domestic competitive telecommunications, cable, and interconnected Voice over Internet Protocol providers serving multiple states: Atlantic Broadband, Inc., Grande Communications Networks, Inc., RCN Telecom Services, LLC, and Sidera Networks, LLC.

³ 47 C.F.R. § 63.03(b)(2)(i).

GENERAL INFORMATION

The transfer of assets identified herein has been found, upon initial review, to be acceptable for filing as a streamlined application. The Commission reserves the right to return any transfer application if, upon further examination, it is determined to be defective and not in conformance with the Commission's rules and policies. Pursuant to section 63.03(a) of the Commission's rules, 47 CFR § 63.03(a), interested parties may file comments **on or before July 14, 2011**, and reply comments **on or before July 21, 2011**. Unless otherwise notified by the Commission, the Applicants may transfer control on the 31st day after the date of this notice.⁴ Comments should be filed using the Commission's Electronic Comment Filing System (ECFS). See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/>.

In addition, e-mail one copy of each pleading to each of the following:

- 1) The Commission's duplicating contractor, Best Copy and Printing, Inc., fcc@bcpiweb.com; phone: (202) 488-5300; fax: (202) 488-5563;
- 2) Tracey Wilson, Competition Policy Division, Wireline Competition Bureau, tracey.wilson@fcc.gov;
- 3) Jodie May, Competition Policy Division, Wireline Competition Bureau, jodie.may@fcc.gov; and
- 4) Jim Bird, Office of General Counsel, jim.bird@fcc.gov.

Filings and comments are available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, S.W., Room CY-A257, Washington, D.C. 20554. They may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554; telephone: (202) 488-5300; fax: (202) 488-5563; e-mail: fcc@bcpiweb.com; url: www.bcpiweb.com.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (tty).

For further information, please contact Tracey Wilson at (202) 418-1394 or Jodie May at (202) 418-0913.

- FCC -

⁴ Such authorization is conditioned upon receipt of any other necessary approvals from the Commission in connection with the proposed transaction.